

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

CIVIL ACTION NUMBER 4:08cv1537
IDEXX Laboratories, Inc. v. ConWay Freight, Inc.

ORDER FOR CONFERENCE & DISCLOSURE OF INTERESTED PERSONS

1. Counsel and pro se litigants shall appear at an initial pretrial and scheduling conference before

Honorable Samuel B. Kent
SEPTEMBER 3, 2008 at 10:30 a.m.
Courtroom 8-B on the 8th floor
United States Courthouse
515 Rusk
Houston, Texas 77002
2. Counsel shall file within fifteen (15) days from receipt of this Order a certificate with the Clerk listing all persons, associations of persons, firms, partnerships, corporations, affiliates, parent corporations, or other legal entities that are financially interested in the outcome of this litigation. If a large group can be specified by a general description, individual listing is not necessary. Underline the name of each corporation whose securities are publicly traded. If new parties are added or if additional persons or legal entities that are financially interested in the outcome of the litigation are identified at any time during the pendency of this litigation, then each counsel shall promptly file an amended certificate with the Clerk.
3. Fed. R. Civ. P. Rule 4(m) requires defendant(s) to be served within 120 days after the filing of the complaint. The failure of plaintiff(s) to file proof of service within 120 days after the filing of the complaint may result in dismissal of this action by the Court on its own initiative.
4. After the parties meet as required by Fed. R. Civ. P. Rule 26(f), counsel shall prepare and file not less than three (3) days before the conference a joint discovery/case management plan containing the information required on the attached form available on the Southern District of Texas website at <http://www.txs.uscourts.gov>.
5. The Court will enter a scheduling order and may rule on any pending motions at the conference.
6. Counsel who file or remove an action must *serve a copy of this order* with the summons and complaint or with the notice of removal.
7. Attendance by an Attorney who has the authority to bind the party is required at the conference.
8. Counsel shall discuss with their clients and each other whether alternative dispute resolution is appropriate and at the conference shall advise the Court of the results of their discussions.
9. A person litigating pro se is bound by the requirements upon counsel in this order.
10. Failure to comply with this order may result in sanctions, including dismissal of the action and assessment of fees and costs

By Order of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

	§	
Plaintiff,	§	
	§	
vs.	§	CIVIL ACTION NO.
	§	
	§	
Defendant,	§	

**JOINT DISCOVERY/ CASE MANAGEMENT PLAN
UNDER RULE 26(f)
FEDERAL RULES OF CIVIL PROCEDURE**

Please restate the instruction before furnishing the information.

1. State when the parties conferred as required by Rule 26(f), and identify the counsel who conferred.
2. List the cases related to this one that are pending in any state or federal court with the case number and court.
3. Briefly describe what the case is about.
4. Specify the allegation of federal jurisdiction.
5. Name the parties who disagree and the reasons.
6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.
7. List anticipated interventions.
8. Describe class-action issues.
9. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.
10. Describe the proposed agreed discovery plan, including:
 - A. Responses to all the matters raised in Rule 26(f).
 - B. When and to whom the plaintiff anticipates it may send interrogatories.
 - C. When and to whom the defendant anticipates it may send interrogatories.
 - D. Of whom and by when the plaintiff anticipates taking oral depositions.
 - E. Of whom and by when the defendant anticipates taking oral depositions.

- F. When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.
 - G. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).
 - H. List expert depositions the opposing party anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).
11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.
 12. Specify the discovery beyond initial disclosures that has been undertaken to date.
 13. State the date the planned discovery can be reasonably completed.
 14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.
 15. Describe what each party has done or agreed to do to bring about a prompt resolution.
 16. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable, and state when such a technique may be effectively used in this case.
 17. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.
 18. State whether a jury demand has been made and if was made on time.
 19. Specify the number of hours it will take to present the evidence in this case.
 20. List pending motions that could be ruled on at the initial pretrial and scheduling conference.
 21. List other motions pending.
 22. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.
 23. Certify that all parties have filed Disclosure of Interested Parties as directed in the Order for Conference and Disclosure of Interested Parties, listing the date of filing for original and any amendments.

24. List the names, bar numbers, addresses and telephone numbers of all counsel.

Counsel for Plaintiff(s)

Date

Counsel for Defendant(s)

Date

Notice of the Right to Try a Civil Case Before a Magistrate Judge

With the consent of all the parties, a United States Magistrate Judge may preside in a civil case, including jury trial and final judgment.

The choice of trial before a Magistrate Judge is entirely yours. Tell only the Clerk. Neither the Judge or Magistrate Judge will be told until all the parties agree.

The District Judge to whom your case is assigned must approve the referral to a Magistrate Judge.

You may get consent forms from the Clerk.

Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

	§	
<i>Plaintiff/Petitioner,</i>	§	
	§	
vs.	§	Civil Action
	§	
	§	
<i>Defendant/Respondent(s).</i>	§	

Consent to Proceed Before a Magistrate Judge

All the parties to this case waive their right to proceed before a district judge and consent to have a United States Magistrate Judge conduct all further proceedings, including the trial and judgment
28 U.S.C. Sec. 636(c), Appeal directly to the Fifth Circuit

_____	_____
_____	_____

ORDER TO TRANSFER

This case is transferred to United States Magistrate Judge

John R. Froeschner

to conduct all further proceeding, including final judgment.

Date

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

	§	
	§	
Plaintiff,	§	
	§	
vs.	§	C. A. No. H- _____
	§	
	§	
	§	
Defendants.	§	

JOINT PRETRIAL ORDER

1. APPEARANCE OF COUNSEL

List each party, its counsel, and counsel's address and telephone number in separate paragraphs.

2. STATEMENT OF THE CASE

Give a brief statement of the case, one that the Court may read to the jury panel for an introduction to the facts and parties; include names, dates and places.

3. JURISDICTION

Briefly specify the jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state it.

4. MOTION

List any pending motions.

5. CONTENTIONS OF THE PARTIES

State concisely in separate paragraphs each party's claims.

6. ADMISSIONS OF FACT

List all facts that require no proof.

7. CONTESTED ISSUES OF FACT

List all material facts in controversy.

8. AGREED PROPOSITIONS OF LAW

List the legal propositions that are not in dispute.

9. CONTESTED PROPOSITIONS OF LAW

State briefly the unresolved issues of law with authorities to support each.

10. EXHIBITS

- A. On a form similar to the one provided by the clerk, each party will attach two lists of all exhibits expected to be offered and will make the exhibits available for examination by opposing counsel. All documentary exhibits must be exchanged before trial, except for rebuttal exhibits or those whose use cannot be anticipated.
- B. A party requiring authentication of an exhibit must notify the offering counsel in writing within five (5) days after the exhibit is listed and made available; failure to object in advance of the trial in writing concedes authenticity.
- C. Within reason, other objections to admissibility of exhibits must be made at least three business days before trial; the Court will be notified in writing of disputes, with copies of the disputed exhibit and authority.
- D. Parties must mark their exhibits to include the date and case number on each.
- E. At the trial, the first step will be the offer and receipt in evidence of exhibits.

11. WITNESSES

- A. List the names and addresses of witnesses who may be called with a brief statement of the nature of their testimony. Include the qualifications of expert witnesses; these will be used to qualify the expert at trial.
- B. Include:
“If other witnesses to be called at the trial, become known, their names, addresses & subject of their testimony will be reported to opposing counsel as soon as they are known; this does not apply to rebuttal or impeachment witnesses.”

12. SETTLEMENT

Statement that all settlement efforts have been exhausted, that the case cannot be settled, and that it will have to be tried.

13. Trial

- A. Probable length of trial; and
- B. Logistical problems, including availability of witnesses, out-of-state people, bulky exhibits, and demonstrations.

14. ATTACHMENTS

Include these required attachments:

A. For a jury trial:

- (1) Proposed questions for the voir dire examination.
- (2) Proposed charge, including instructions, definitions, and special interrogatories, with authority.

B. For a nonjury trial:

- (1) Proposed findings of fact (without repeating uncontested facts) and
- (2) Conclusion of Law, with authority.

Date

United States District Judge

APPROVED:

Date: _____

Attorney-in-charge, Plaintiff

Date: _____

Attorney-in-charge, Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

CASE NO. _____

_____	§	JUDGE SAMUEL B. KENT
	§	Case Manager - Byron Thomas
vs.	§	Reporter -
	§	Jury/Bench Trial
_____	§	Date _____
	§	
Exhibit List of Plaintiff/Defendant	§	Attorney _____

Page 1 of 1

EX. No.	Description	Marked	Offered	Object	Admit	Date

